

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff(s),

CASE NUMBER: 10-20123

HONORABLE VICTORIA A. ROBERTS

v.

**D-1 DAVID BRIAN STONE,
D-2 DAVID BRIAN STONE, JR.,
D-3 JOSHUA MATTHEW STONE,
D-4 TINA MAE STONE,
D-5 JOSHUA JOHN CLOUGH,
D-6 MICHAEL DAVID MEEKS,
D-7 THOMAS WILLIAM PIATEK,
D-8 KRISTOPHER T. SICKLES,
D-9 JACOB J. WARD,**

Defendant(s).

ORDER

The Government filed a woefully inadequate motion, unaccompanied by a brief, in which it requests the Court to stay its Order of May 3, 2010. (Doc. #139). That Order released all nine Defendants on bond with significant conditions to reasonably assure their appearance in Court as required, and the safety of the community. The Government says it is seeking authorization from the Solicitor General to file an appeal to the Sixth Circuit, but it has not yet received permission. The Government does not tell the Court how long it will take the Solicitor General to make a decision.

There is a legal standard that must be addressed when the Court considers whether to grant a stay pending appeal, and the burden is on the party seeking the stay to demonstrate its entitlement. The factors the Court must consider in order to make a

reasoned decision are:

- (1) the likelihood of the Government's success on appeal;
- (2) whether the Government would be irreparably injured if the stay is denied;
- (3) whether a stay would substantially harm the Defendants; and
- (4) the public interest.

See *United States v. Barrigar*, 2006 U.S. Dist. LEXIS 23212, *8 (E.D. Mich. April 26, 2006) (citation omitted).

The Government does not address any of these factors in its motion for stay.

However, because of the heightened public interest in the outcome of this Court's bond issue, the Court will **GRANT** a limited stay of its May 3, 2010 Order.

The Government must notify the Court of the Solicitor General's decision by **5:00 p.m. on Wednesday, May 5, 2010**.

If the Solicitor General grants the Government permission to file an appeal, the Government must address the four factors in the document it files by Wednesday. The Government must include citations to legal authority. The Court will then decide whether to extend, or dissolve, the stay.

If the Solicitor General denies the Government permission to appeal, the stay is dissolved, and the Defendants will be processed for release. Similarly, if the Government fails to comply with its May 5th requirements, the stay is dissolved, and the Defendants will be processed for release.

IT IS ORDERED.

Dated: May 3, 2010

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on May 3, 2010.

s/Carol A. Pinegar _____
Deputy Clerk